

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - FLINT

LEO McKAYE, #180515,

Plaintiff(s),

CASE NO.: 2:05-CV-73968-DT

vs.

HON. GERALD E. ROSEN
MAG. JUDGE WALLACE CAPEL, JR.

SHERRY L. BURT,

Defendant(s).

ORDER GRANTING DEFENDANT'S
MOTION FOR PROTECTIVE ORDER
AND
ORDER GRANTING IN-PART PLAINTIFF'S
ORDER FOR ENLARGEMENT OF TIME

This matter is before the Court on the Defendant's "Motion For Protective Order Staying Discovery," filed, on July 26, 2006, and the Plaintiff's "Motion For Enlargement Of Time," filed on July 26, 2006.

The Defendant, in support of its motion to stay discovery, states that on July 25, 2006, it received from the Plaintiff a request for documents and interrogatories, as well as a Notice of Deposition. Defendant is asking that due to the burden of time and expense in engaging in the discovery process that it be stayed pending resolution of the pending motion to dismiss for failure to exhaust administrative remedies. Having reviewed the motion, and for the reasons stated therein, the motion for protective order is hereby **GRANTED**.

The Plaintiff in his motion is asking that he be granted an extension of time of 60 days in which to file a response to the Defendant's motion to dismiss. In support of his motion, he states that on July 21, 2006, he received the Court's Notice of Motion. He further states that he is unable

to comply with the requirement of Local Rule 7.1 which requires that a response to a dispositive motion be filed 21 days after service of the motion because he lacks regular access to legal materials.

A review of the case file in this matter indicates that the Defendant's motion was filed on June 28, 2006. According to the Certificate of Service filed along with the motion, it appears that the Defendant mailed a copy of the motion to the Plaintiff on June 28, 2006. Given that because the Plaintiff is incarcerated, it may have taken him a longer period of time than normal to receive this motion. It is also reasonable to assume that he has had a fair amount of time since receipt of the motion to begin working on his response, and as such, a period of 60 days should not be necessary to complete a response to this motion. Accordingly, the motion shall be **GRANTED IN-PART**. The Plaintiff is hereby granted a period of **30 days** from receipt of this Order in which to file his response.

IT IS SO ORDERED.

The parties are hereby informed that any objection to this order must be filed with the district court within 10 days after service, pursuant to Rule 72(a), Federal Rules of Civil Procedure.

DATED: August 1, 2006

s/ Wallace Capel, Jr.
WALLACE CAPEL, JR.
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on **August 1, 2006**, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send electronic notification of such filing to the following: Cori E. Barkman, Esq.. I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participant(s) Leo McKaye, #180515, Ionia Maximum Correctional Facility, 1576 W. Bluewater Hwy., Ionia, MI 48846

s/James P. Peltier
James P. Peltier
Courtroom Deputy Clerk
U.S. District Court
600 Church St.
Flint, MI 48502
810-341-7850
pete_peltier@mied.uscourts.gov